

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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MARVIN KURT NATION,

PLAINTIFF,

VERSUS.

WILLIE AMBERS, et al.,

DEFENDANTS.

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CASE NO: 2:06-CV-693-ID

MOTION TO DISMISS DEFENDANT
WARDEN JOHN NAGLE

Comes now the Plaintiff in the above styled matter and Motion this Honorable Court for an Order dismissing the Defendant, Warden John Nagle, and in support hereof the Plaintiff shows unto this Honorable Court as follows:

1}. The Plaintiff avers that the Defendant Warden John Nagle will be barred from liability being sought in his official capacity under such circumstances, and the Plaintiff realize that service upon, and the attempted prosecution of the claims against This prison official would be for naught, because under the circumstances the Defendant Warden Nagle would be protected pursuant to the Eleventh Amendment, and therefore, further pursuit in this matter against this Defendant would be in vain.

2}. The Plaintiff avers that pursuant to **Rule 21 Federal Rules of Civil Procedures** the dismissal of the claims against a specific Defendant is allowed, and the

Plaintiff hereinafter respectfully request that this Honorable Court issue an order dismissing the defendant **Warden John Nagle** from this action as a matter of course, because the Plaintiff avers that he cannot prevail on his claims against this Defendant.

3}. The Plaintiff avers that no purpose would be served by allowing this defendant to remain a part of this action, therefore, the Plaintiff Motion's this Honorable Court for an Order dismissing the said defendant without prejudice to either the defendant or the Plaintiff in this action.

Wherefore, the Plaintiff avers that based upon the premises herein stated, this Plaintiff prays that this Honorable Court will grant this Motion and issued orders that will remove, and otherwise dismiss this named defendant from this action.

Done on this the 15TH day of S e p t e m b e r, 2 0 0 6.

RESPECTFULLY SUBMITTED,




Marvin Kurt Nation
Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the Defendants by placing a copy of the same in the United States mail properly stamped and addressed on this the 15th day of September, 2 0 0 6.

State of Alabama
Department of Corrections
Legal Division
C/O Attorney General/General Counsel
11 South Union Street
Montgomery, Alabama 36130-0152


Plaintiff

ADDRESS OF PPLAINTIFF:

MARVIN KURT NATION
AIS # 141669 UNIT # 4/036
G. K. FOUNTAIN CORR. FAC.
F O U N T A I N 3 8 0 0
A T M O R E, A L A B A M A
3 6 5 0 3